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SHIRLEY E. FAUST, CLERK
By _____

MONTANA FOURTH JUDICIAL COURT MISSOULA COUNTY

THE STATE OF MONTANA,	*	CAUSE NO. DC-08-545
Plaintiff,	*	AMENDED INFORMATION
vs.	*	Total Possible MSP: 80 Years
DAVID C. JOHNSON,	*	Total Possible MCDF: 18 Months
Defendant.	*	Total Possible Fine: \$401,500.00

Roberta Cross Guns, Special Deputy Missoula County Attorney, as attorney for the State of Montana, having first obtained leave of the Court as required by law, files this Amended Information accusing the Defendant, **DAVID C. JOHNSON**, of having committed the following offenses:

COUNTS I-V: Theft, a felony, committed in violation of § 45-6-301(8), Montana Code Annotated, each count punishable by a fine in an amount not to exceed \$50,000 or by imprisonment in a state prison for a term not to exceed 10 years, or both; **COUNTS VI & VII:** Theft, a misdemeanor, committed in violation of § 45-6-301(1)[1st], Montana Code Annotated, each count punishable by a fine in an amount not to exceed \$500 or by imprisonment in the

Missoula County Detention Center for a term not to exceed 6 months, or both; **COUNTS VIII - X: Exploiting An Older Person Or A Person With A Developmental Disability**, a felony, committed in violation of § 52-3-825(3)(a)(2), MCA, each count punishable by a fine in an amount not to exceed \$50,000 or by imprisonment in a state prison for a term not to exceed 10 years, or both; and **COUNT XI: Exploiting An Older Person Or A Person With A Developmental Disability**, a misdemeanor, committed in violation of § 52-3-825(3)(a)(1), MCA punishable by a fine in an amount not to exceed \$500 or by imprisonment in the Missoula County Detention Center for a term not to exceed 6 months, or both.

The facts constituting the offenses are as follows:

COUNT I:

On or about August 2, 2005, in Missoula County, State of Montana, the Defendant, **DAVID C. JOHNSON**, did purposely or knowingly commit the offense of insurance fraud by misrepresenting the material facts that transferring an annuity product issued by Banker's Life and Casualty Company (hereafter "Banker's Life") owned by D.T., an older person, to an annuity product issued by Lincoln Benefit Life Company was unsuitable for D.T. and the increased interest rate promised by Lincoln Benefit did not offset the losses incurred by D.T. as evidenced in the fees and penalties associated with taking the money out of the Banker's Life product prematurely. Further, Johnson effected the transfer of D.T.'s funds for the purpose of generating income for himself to D.T.'s detriment. Johnson earned \$4,699.85 in commission for this transaction. The value of the property obtained exceeds \$1,000.00.

COUNT II:

On or near November 28 2005, in Missoula County, State of Montana, the Defendant, **DAVID C. JOHNSON**, did purposely or knowingly commit the offense of insurance fraud by

misrepresenting the material facts that transferring another annuity product issued by Banker's Life and Casualty Company owned by D.T., an older person, to an annuity product issued by Allianz Life Insurance Company of North America was unsuitable for D.T. and the increased interest rate promised by Allianz did not offset the losses incurred by D.T. evidenced in the fees and penalties associated with taking his money out of the Banker's Life product prematurely. Further, Johnson effected the transfer of D.T.'s funds for the purpose of generating income for himself to D.T.'s detriment. Johnson earned a commission of \$4,223.58 for this transaction. The value of the property obtained exceeds \$1,000.00.

COUNT III:

On or about March 26, 2007, in Missoula County, State of Montana, the Defendant, **DAVID C. JOHNSON**, did purposely or knowingly commit the offense of insurance fraud by misrepresenting the material facts that transferring an annuity product issued by Lincoln Benefit owned by D.T., an older person, to an annuity product issued by Allianz Life Insurance Company of North America was unsuitable for D.T. and the increased interest rate promised by Allianz did not offset the losses incurred by D.T. evidenced in the fees and penalties associated with taking his money out of the Lincoln Benefit product prematurely. Further, Johnson effected the transfer of D.T.'s funds for the purpose of generating income for himself to D.T.'s detriment. Johnson earned a commission of \$28,364.97 for this transaction. The value of the property obtained exceeds \$1,000.00.

COUNT IV:

On or near August 2006 in Missoula County, State of Montana, the Defendant, **DAVID C. JOHNSON**, did purposely or knowingly commit the offense of insurance fraud by misrepresenting the material facts that transferring an annuity product issued by Banker's Life

and Casualty Insurance owned by R. and E. H., older persons, to an annuity product issued by Allianz was unsuitable for R. and E. H. and the increased interest rate promised by Allianz did not offset the losses incurred by R. and E.H. evidenced in the fees and penalties associated with taking their money out of the Banker's Life product prematurely. Further, Johnson effected the transfer of R. and E. H.'s funds for the purpose of generating income for himself to R. and E. H.'s detriment. Johnson earned a commission of approximately \$10,530.00 for this transaction. The value of the property obtained exceeds \$1,000.00.

COUNT V:

On or about December 3, 2007 in Missoula County, State of Montana, the Defendant, **DAVID C. JOHNSON**, did purposely or knowingly commit the offense of insurance fraud by misrepresenting the material facts that transferring three annuity products issued by Banker's Life and Casualty Insurance owned by R. and E. H., older persons, to three new annuity products issued by Allianz was unsuitable for R. and E. H. and the increased interest rate promised by Allianz did not offset the losses incurred by R. and E. H. evidenced in the fees and penalties associated with taking their money out of the Banker's Life product prematurely. Further, Johnson effected the transfer of R. and E. H.'s funds for the purpose of generating income for himself to R. and E. H.'s detriment. Johnson earned a commission of approximately \$2,753.00 for this transaction. The value of the property obtained exceeds \$1,000.00.

COUNT VI:

In or near July 2006 in Missoula County, State of Montana, the Defendant, **DAVID C. JOHNSON**, did purposely or knowingly commit the offense of insurance fraud by misrepresenting the material facts that transferring an annuity product issued by Banker's Life and Casualty Insurance owned by E. B., an older person, to an annuity product issued by Allianz

was unsuitable for E. B. and the increased interest rate promised by Allianz did not offset the losses incurred by E. B. evidenced in the fees and penalties associated with taking E. B.'s money out of the Banker's Life product prematurely. Further, JOHNSON effected the transfer of E. B.'s funds for the purpose of generating income for himself to E. B.'s detriment. Johnson earned a commission of approximately \$846.00 for this transaction. The value of the property obtained does not exceed \$1,000.00.

COUNT VII:

On or near December 2005 in Missoula County, State of Montana, the Defendant, **DAVID C. JOHNSON**, did purposely or knowingly commit the offense of insurance fraud by misrepresenting the material facts that transferring an annuity product issued by Banker's Life and Casualty Insurance owned by J. H., an older person, to an annuity product issued by Allianz was unsuitable for J. H. and the increased interest rate promised by Allianz did not offset the losses incurred by J. H. evidenced in the fees and penalties associated with taking J. H.'s money out of the Allianz product prematurely. Further, Johnson effected the transfer of J. H.'s funds for the purpose of generating income for himself to J. H.'s detriment. Johnson earned a commission of approximately \$103.00 for this transaction. The value of the property obtained does not exceed \$1,000.00.

COUNT VIII:

In or near May 2008, in Missoula County, State of Montana, the Defendant, **DAVID C. JOHNSON**, did purposely or knowingly commit the offense of Exploiting An Older Person Or A Person With A Developmental Disability by taking money from his insurance customer E. B. with a verbal promise to repay E. B. E.B. is an older person. Johnson took money from E. B. on at least two separate occasions during a month when E. B. had received a disbursement from E.

B.'s annuity. Johnson made the annuity disbursement request for E. B. as E. B.'s insurance salesman. Johnson then fabricated a "promissory note" for E. B. to sign four months after taking E.B.'s money, and after he was interviewed by investigators from the State Auditor's Office. To date, Johnson has failed to repay the money he owes E. B. The total dollar amount Johnson borrowed from E. B. is \$1,430.00. The value of the property obtained exceeds \$1,000.00.

COUNT IX:

In or near October 2007, in Missoula County, State of Montana, the Defendant, **DAVID C. JOHNSON**, did purposely or knowingly commit the offense of Exploiting An Older Person Or A Person With A Developmental Disability by taking money from his insurance customers R. and E. H. with a written promise to pay. R. and E. Hoffman are older persons. The written promise indicates Johnson took \$2,000.00 of R. and E. H.'s money on or about October 10, 2007, then another \$1,000.00 on or about October 15, 2007, another \$1,000.00 on October 25, and another \$3,870.00, for a total of \$7,870.00. Johnson promised to pay this amount along with a 10% interest on the money taken for a total amount owed to R. and E. H. of \$8,657.00. Then in December 2007 Johnson transferred R. and E. H.'s Banker's Life and Casualty Company's annuity to an Allianz Life Insurance Company of North America annuity. Johnson also received a commission from this annuity transfer of \$2,756.00. To date Johnson has not paid any money toward the amount he owes R. and E. H.

By virtue of his position as R. and E. H.'s insurance salesman, Johnson knew that for tax purposes money was withdrawn from R. and E. H.'s annuities yearly. Each year at the time of these withdrawals Johnson would either attempt to make sales to R. and E. H. or ask to borrow from them. By virtue of his position as R. and E. H.'s insurance salesman, Johnson told them

what amount of money and when the money should be withdrawn from R. and E. H.'s annuities, providing him with additional special knowledge about R. and E. H.'s financial assets. The value of the property obtained exceeds \$1,000.00.

COUNT X:

In or near October 2007, in Missoula County, State of Montana, the Defendant, **DAVID C. JOHNSON**, did purposely or knowingly commit the offense of Exploiting An Older Person Or A Person With A Developmental Disability by taking \$700.00 from his insurance customer C. H., an older person, with a verbal promise to C. H. to repay the money. Johnson took money from C. H. on at least two separate occasions, including \$700.00 taken in early 2007 which Johnson repaid, including \$70.00 in interest. Johnson then fabricated a "promissory note" for C. H. to sign in September 2008 regarding the \$700.00 he took from C. H. in 2007, after he was interviewed by investigators from the State Auditor's Office. To date, Johnson has failed to repay the \$700.00 he took from C. H. in October of 2007. The total dollar amount Johnson took from C. H. was \$1,400.00. The value of the property obtained exceeds \$1,000.00.

COUNT XI:

During the period between November 2003 and September 2008, in Missoula County, State of Montana, the Defendant, **DAVID C. JOHNSON**, did purposely or knowingly commit the offense of Exploiting An Older Person Or A Person With A Developmental Disability by taking \$2,000.00 from his insurance customer, J. H., an older person, with a verbal promise to J. H. to repay the money. J. H. believes Johnson currently owes \$300.00 for money he took from J. H. in or around April 2008. Johnson fabricated a "promissory note" for J. H. to sign in September 2008 that indicates he owes J. H. \$2,000.00 he took from J. H. over the period of nearly five years. Johnson fabricated the promissory note after he was interviewed by

investigators from the State Auditor's Office. To date, Johnson has failed to repay at least the \$300.00 he took from J. H. in April 2008. The value of the property obtained does not exceed \$1,000.00.

Dated this 26th day of November, 2008.

Roberta Cross Guns
Roberta Cross Guns
Special Deputy Missoula County Attorney

Witnesses known to the Office of the County Attorney at the time of filing this Information are as follows:

[REDACTED]

